



**U.S. Customs and
Border Protection**

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MEMORANDUM FOR: All CBP Employees

FROM:

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SUBJECT: Social Media Posts

Currently, social media is one of the most popular methods of receiving news and sharing information. Websites like Twitter and Facebook are commonly used by major news media stations, government agencies, and even the President of the United States. With the availability of social media at your fingertips through computers, smartphones, and tablets, it is imperative to be knowledgeable on how social media posts could impact you as a Federal employee.

U.S. Customs and Border Protection (CBP) Directive 5410-003, “Operational Use of Social Media,” defines social media as the sphere of websites, applications, and web-based tools that connect users to engage in dialogue, share information and media, collaborate, and interact. Social media takes many different forms, including but not limited to web-based communities and hosted services, social networking sites, video and photo sharing sites, blogs, virtual worlds, social bookmarking, and other emerging technologies.

On- and Off-Duty Conduct

Recently the Agency was made aware of a private Facebook group page that only a specific group of CBP employees could access, on which inappropriate and offensive posts were made.

Employees are expected to adhere to CBP’s Standards of Conduct, Directive No. 51735-013A, which states, “Employees will not make abusive, derisive, profane, or harassing statements or gestures, or engage in any other conduct evidencing hatred or invidious prejudice to or about one person or group on account of race, color, religion, national origin, sex, sexual orientation, age or disability.”

As a reminder, on January 2, 2018, Acting Commissioner McAleenan issued an Anti-Discrimination and Anti-Harassment policy (the Anti-Discrimination Policy) statement advising employees that discrimination or harassment will not be tolerated. [The Anti-Discrimination Policy](#) makes clear, it is unlawful at the workplace to harass any person because of that person’s race, color, or other legally protected status. Harassment can include racial slurs, and offensive or derogatory remarks that create a hostile work environment. Although Agency employees have a First Amendment right to free speech, offensive speech is not always protected.

The Anti-Discrimination Policy applies to off-duty conduct that has a nexus to the workplace. Off-duty conduct may have a nexus to the work place when it (1) is sufficiently egregious; (2) adversely affects an employee's or coworkers' job performance, or management's trust and confidence in the employee's job performance; or (3) interferes with or adversely affects the Agency's mission. If an employee's off-duty conduct, including speech, has a nexus to the workplace and is in violation of law or Agency policies, that speech is actionable misconduct. Once known to the Agency, the Agency may be held responsible for failing to remedy or prevent further such misconduct. Therefore, the Agency can bring discipline against employees who make objectively offensive statements.

Social media amplifies a speaker's message, which may increase the potential for workplace disruption if there is a nexus to the workplace. Messages posted on a private social media page to which only Agency employees have access can reasonably disrupt the work place when the messages are harassing, discriminatory, or in some way objectively offensive. Such speech is not protected and violates the Standards of Conduct. Nexus to the work place does not disappear simply because personal matters are discussed on a social media group page to which only Agency employees have access.

The bottom line is the Agency may bring discipline against an employee who posts offensive messages on a social media page where there is nexus to the Agency workplace.

CONCLUSION

Employees must ensure compliance with the CBP's Standards of Conduct, the Anti-Discrimination Policy, and other applicable rules and regulations regarding social media activity. By doing so, you protect yourself from policy and ethical violations, while also protecting the integrity of the Agency. Failure to comply with the social media guidelines, on- and off-duty, may lead to disciplinary action, up to and including removal from Federal service.

This guidance is not intended to be comprehensive. Please contact the ethics official in the Office of the Chief Counsel serving your geographical location in regards to employee ethics issues as they relate to social media activities. Your servicing Labor and Employee Relations Specialist can assist with any questions regarding Agency policies and bargaining unit agreements involving employee activity on social media.